IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1630 OF 2004

IN

SUMMARY SUIT NO.3412 OF 2003

Albert Mandonca ... Plaintiff

v/s

Anand Hegde ... Defendant

Mr Tiwari i/b M/s V.B. Tiwari and Associates for Plaintiff.

Mr C.G. Gawnekar with Mr G.S. Hiranandani for Defendant.

CORAM : D.K.DESHMUKH J.

DATE : 15TH APRIL 2005

P.C.: -

1. This is a notice of motion taken out by the defendant stating that this Court does not have territorial jurisdiction to entertain the suit. Perusal of the plaint shows that the suit is for recovery of an amount of Rs.8,00,000/- from the defendant. According to the averments in the plaint, the plaintiff carries on his business at Panvel, District Raigad. According to paragraph 2 of the plaint, the defendant was residing at Hotel Surya in Panvel. The plaintiff advanced an amount of Rs.8,00,000/- as loan to the defendant and defendant issued cheques in favour of the plaintiff towards repayment of the loan. The cheques are of the Bank in Raigad district. The cheques were dishonoured and therefore, the present suit has been filed. The only averment to be found in the plaint is that the cheques were issued to the plaintiff in Bombay and therefore, cause of action has arisen in Bombay. Even according to the plaintiff, both the plaintiff and the defendant were outside the territorial jurisdiction of this Court and even if the cheques were of the bank which is outside the territorial jurisdiction of this Court, there is nothing explained as to why parties came to Bombay just for handing over and taking over the cheques. In the

affidavit filed in support of the motion, the defendant has clearly stated that no part of the transaction took place within the territorial jurisdiction of this Court. Though the plaintiff has been served with this motion, no reply has been filed. Therefore, in view of the averments in the plaint and uncontroverted averments in the affidavit filed in support of the motion, notice of motion is granted in terms of prayer clauses (a) and (b). The plaintiff is granted six weeks' time for presentation of the plaint to the appropriate Court.

. Parties to act on the copy of this order duly authenticated by the Associate / Personal Secretary as true copy.

. Certified copy expedited.